



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,766	09/10/2003	Rainer Barth	BARTH-2	4858

20151 7590 10/18/2011
HENRY M FEIEREISEN, LLC
HENRY M FEIEREISEN
708 THIRD AVENUE
SUITE 1501
NEW YORK, NY 10017

EXAMINER

DENNISON, JERRY B

ART UNIT	PAPER NUMBER
----------	--------------

2443

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

10/18/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

INFO@FEIEREISENLLC.COM



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/659,766
Filing Date: September 10, 2003
Appellant(s): BARTH, RAINER

Henry M. Feiereisen
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/05/2011 appealing from the Office action mailed 3/31/2011.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-12, 14-15, and 17-26 are rejected.

Claims 1-12, 14-15, and 17-26 are pending and being appealed.

(4) Status of Amendments After Final

The Appeal Brief has been filed after Non-Final Office Action. Therefore, no amendments were made After-Final.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

Art Unit: 2443

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2008/0186166	Zhou et al.	8-2008
7,203,560	Wylie et al.	4-2007
2007/0208697	Subramaniam et al	9-2007
6,892,064	Qi et al.	5-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4, 7-12, 14-15, 17-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wylie et al. (US 7203560) in view of Zhou et al. (US 20080186166).

Regarding claim 1, Wylie disclosed a method for securely providing event-relevant information about an industrial control alarm event occurring in a machine from an industrial controller controlling the machine to a specified remote receiver via a network, comprising the steps of:

assigning a specific receiver to each specific industrial control alarm event (Wylie, col. 7, lines 55-67, Wylie disclose alerting users via their pagers, email, voicemail which require specific receiver for the event);

writing the event-relevant information provided by the controller to a database, said event-relevant information including sensitive event-relevant information (Wylie, col. 5, lines 2-5, 10-15, monitoring for events within a controller such as faults; col. 5, lines 45-67, data is saved within the controller thereby allowing notified users to access the data and providing web access)

transmitting from the controller to a receiver in response to the alarm event a receiver-specific message indicating that the alarm event has occurred (Wylie, col. 5, lines 60-65, col. 8, lines 30-53, Wylie disclosed notifying remote users of the event data from the controller); and

accessing the event-relevant information written to the database for the specified receiver via a Web server using a cryptographically protected communication protocol based on an Internet browser in response to the receiver-specific message (Wylie, col. 8, lines 35-53, Wylie disclosed the communications processor acting as a web server

Art Unit: 2443

and communicating using SSL; col. 9, lines 30-45, Wylie disclosed remote users may lo), and

performing at least one of failure analysis or fault repair on the machine using the sensitive event-relevant information accessed using said cryptographically protected communication protocol (Wylie, col. 9, lines 30-45; col. 10, lines 55-67, providing diagnostic information).

While Wylie disclosed alerting users of industrial control events, Wylie did not explicitly state the alerts not including sensitive information.

In an analogous art of alerting users, Zhou disclosed an Application Service Provider ("ASP") which serves as an intermediary between devices and end users, providing users the ability to monitor sensor data for one or more devices. Zhou disclosed the ASP comprising one or more servers, including web servers and database servers, for which users have the ability to access device data, specify alert threshold values and receive notifications from the ASP (Zhou, [0021]). Zhou further disclosed that the users may specify what device the user is to receive the alerts (Zhou, [0079]). As such, the system of Zhou clearly assigns a specific receiver to each alarm event as specified by the user. Zhou disclosed users accessing the ASP through a secure website allowing authorized users to update device configurations, set up alerts, monitor other parameters, as well as view sensor data (Zhou, [0022], [0111]). As such, Zhou clearly disclosed that only authorized users can access device information through the secure site. Zhou disclosed that users who cannot access the ASP website can contact a Call Management Center via a convention telephone communication network, and

Art Unit: 2443

that users “may call the CMC for additional information beyond the basic message generated by the ASP’s automatic notification system (Zhou, [0022], [0102]). As such, it is evident that Zhou disclosed the notification system only sending a basic message indicating that an alert event occurred, and the user must either log in to the secure website to find out additional information or call the CMC, which requires “PIN verification” (Zhou, [0022]).

One of ordinary skill in the art would have been motivated to combine the teachings of Zhou within the teachings of Wylie since both provide for generating alerts to users.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the sending of alert messages as disclosed in Zhou, into the teachings of Wylie in order to provide an extra level of security, making it that much more difficult for the system to be hijacked by an intruder, thereby improving the security of the system as a whole.

Claim 11 recites a method having limitations that are substantially similar to claim 1, further reciting a “modem connection” being secure. As shown in the above rejection, both references disclosed using secure connections to the network and as such, both include a secure modem connection as claimed. As such, claim 11 is rejected under the same rationale.

Art Unit: 2443

2. Regarding claim 2, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein the cryptographically protected communication protocol based on the Internet browser comprises a "Hypertext Transfer Protocol Security" protocol (Zhou, [0023], Zhou disclosed using Secure Socket Layer).

3. Regarding claim 3, Wylie and Zhou disclosed the limitations as described in claim 2, including wherein the "Hypertext Transfer Protocol Security" protocol comprises a "Secure Socket Layer" protocol or a "Transport Layer Security" protocol (Zhou, [0023]).

4. Regarding claim 4, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein the receiver-specific message is transmitted to the specified receiver as an e-mail message, an SMS message or as a voice message (Zhou, [0021]).

5. Regarding claim 7, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein access to the Web server is protected by a login prompt and a password (Zhou, [0070]).

6. Regarding claim 8, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein the Web server is integrated with hardware of the controller (Zhou, [0021]).

7. Regarding claim 9, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein at least one of the database and the Web server are implemented as hardware that is separate from hardware of the controller (Zhou, [0021], Zhou disclosed the ASP may be implemented with numerous servers).

8. Regarding claim 10, Wylie and Zhou disclosed the limitations as described in claim 1, including the step of transmitting at least one of data, parameters and programs from the specified receiver to the controller (Zhou, [0111]).

9. Regarding claim 12, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein the event-relevant information written to the data base includes at least one of event messages, fault messages, information about machine status and process information, or a combination thereof (Zhou, [0068]).

10. Regarding claim 14, Wylie and Zhou disclosed the limitations as described in claim 1, including wherein only a receiver-specific message indicating that a specified alarm event has occurred is transmitted to the specified receiver (Zhou, [0022], "basic message").

11. Regarding claim 15, Wylie and Zhou disclosed the limitations as described in claim 11, including wherein the event-relevant information written to the data base

Art Unit: 2443

includes at least one of event messages, fault messages, information about machine status and process information, or a combination thereof (Zhou, [0068]).

12. Regarding claim 17, Wylie and Zhou disclosed the limitations as described in claim 11, including wherein only a receiver-specific message indicating that a specified alarm event has occurred is transmitted to the specified receiver (Zhou, [0022], “basic message”).

13. Regarding claim 18, Wylie and Zhou disclosed the limitations as described in claim 11, including the step of transmitting at least one of data, parameters and programs from the specified receiver to the controller (Zhou, [0111]).

14. Regarding claim 19, Wylie and Zhou disclosed the limitations as described in claim 11, including wherein the event-relevant information that is written to the database includes at least one of event messages, fault messages, information about machine status and process information, or a combination thereof (Zhou, [0068])..

15. Regarding claim 20, Wylie and Zhou disclosed the limitations as described in claim 11, including wherein only a receiver-specific message indicating that a specified alarm event has occurred is transmitted to the specified receiver (Zhou, [0111]).

Art Unit: 2443

16. Regarding claims 21 and 22, Wylie and Zhou disclosed the limitations as described in claims 1 and 11, including wherein the event-relevant information is written to a receiver specific database element of the database (Zhou, [0063]-[0079]).

17. Regarding claims 23 and 24, Wylie and Zhou disclosed the limitations as described in claims 1 and 11, including wherein event-relevant information written to the database for the specified receiver is accessed in response to the receiver-specific message (Zhou, [0114]).

18. Regarding claims 25 and 26, Wylie and Zhou disclosed the limitations as described in claims 1 and 11, including wherein said fault repair is performed by uploading information to the controller using said cryptographically protected communication protocol (Wylie, col. 8, lines 9-20, 40-45).

19. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wylie and Zhou in view of Qi et al. (US 6892064).

20. Regarding claim 5, Wylie and Zhou disclosed the limitations as described in claim 4. Z Wylie and Zhou hou did not explicitly state wherein the e-mail message includes a cross-reference, in particular a URL address, that provides a link to the event-relevant information that is stored in the database for the specified receiver.

Qi disclosed including a URL linked address within an email in order to provide the user with easier access to the service provider (Qi, col. 17, lines 45-55). Qi provides evidence that the use of URL linked addresses within emails were well known at the time the invention was made. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate using URL linked addresses within the email notifications of Wylie and Zhou in order to obtain the predictable result of making it easier for users to access their device information upon indication of an alert, thereby making it easier and faster for the users to correct any problems there may be with their devices, and as such, making the system more desirable to use by its customers.

21. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wylie and Zhou in view of Subramaniam et al (US 20070208697).

22. Regarding claim 6, Wylie and Zhou disclosed the limitations as described in claim 4. Wylie and Zhou did not explicitly state wherein the event-relevant information written to the database for the specified receiver includes file attachments which are stored in the database for the specified receiver.

Subramaniam disclosed that information may be saved as file attachments and stored in the database so that they can be downloaded by users (Subramaniam, [0318]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate saving the alert information as file attachments within the database of Wylie and Zhou in order to allow users, when accessing their device information through the database, to download such information as a file to store for archiving and keep for reviewing historical data (Zhou, [0068]), thereby allowing users to maintain information about their devices.

(10) Response to Argument

Appellant presents two principle arguments:

- A. Examiner's conclusion of obviousness being based on improper hindsight reasoning.
- B. Claims 1 and 11, and dependent claims, are not obvious over Wylie in view of Zhou.

Examiner respectfully disagrees with both arguments for the following reasons.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

Art Unit: 2443

reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant asserts, "There must be motivation in Wylie's automated industrial machine controllers to combine them with Zhou's inappropriate, centralized multi-purpose public service bureau" [Brief, 4-5].

In response, Examiner points out that Wylie already disclosed the function of sending an alert message, but did not explicitly describe the "contents" of the alert message. More specifically, Wylie did not explicitly state whether the alert message included or did not include "sensitive information" as claimed.

Therefore, Zhou was only relied upon to show that it was well known to send alert messages where the "content" of the alert messages did not include "sensitive information" as claimed. As can be seen in the rejection of claims 1 and 11, Zhou was only relied upon to show that event notifications can be sent to receivers without sending "sensitive information".

Explanation of Zhou (as provided in the rejection):

Zhou disclosed users accessing the ASP through a secure website allowing authorized users to update device configurations, set up alerts, monitor other parameters, as well as view sensor data (Zhou, [0022], [0111]). As such, Zhou clearly disclosed that only authorized users can access device information through the secure site. Zhou disclosed that users who cannot access the ASP website can contact a Call

Art Unit: 2443

Management Center via a conventional telephone communication network, and that users “may call the CMC for additional information beyond the basic message generated by the ASP’s automatic notification system (Zhou, [0022], [0102]). As such, it is evident that Zhou disclosed the notification system only sending a “basic message” indicating that an alert event occurred, and the user must either log in to the secure website to find out additional information or call the CMC, which requires “PIN verification” (Zhou, [0022]). In other words, the users must log in to the system in order to view secure information (i.e. the sensitive information) that is not provided by the “basic message”. Clearly by requiring the users to log in, Zhou is protecting sensitive information from being seen by the public.

As such, it is clearly evident that the teachings of Zhou provided the simple concept of alerting users with a “basic message” that does not include sensitive information.

Both Wylie and Zhou disclosed the use of the same type of transmission protocols such as TCP and SSL (Wylie, col. 8, lines 35-53; Zhou [0023]). Therefore the incorporation of the type of message of Zhou into Wylie would have been obvious as both references include similar transmission environments. In other words, simply modifying the message of Wylie to include similar "content" as described in Zhou does not require any extra implementation.

Furthermore, while Zhou was relied upon to disclose the sending of a message that does not include "sensitive information", Examiner would like to point out that the teachings of Wylie do not preclude this type of message. As can be seen in Wylie at col. 8 lines 5-10, Wylie disclosed, "In addition, programming or control screens can be generated to enable a remote user to gain access to the controller." Wylie further disclosed at col. 9, lines 5-13, that "A transport layer associated with the stack 320 may include Transmission Control Protocol (TCP) that provides a higher level of control for moving information between systems. This may include more sophisticated error handling, prioritization, and security features."

Since Wylie did not preclude sending a basic message that does not contain "sensitive information", and Wylie clearly suggests the idea of users gaining access to the system in a secure manner, then it is clear that Wylie suggested protecting the system from providing sensitive material to the public.

Therefore, it is the position of the Examiner that the incorporation of the "basic message" of Zhou within the teachings of Wylie is proper as doing so would further strengthen the idea of security as suggested by Wylie, i.e. to provide an extra level of security, making it that much more difficult for the system to be hijacked by an intruder, thereby improving the security of the system as a whole (as stated in the rejection).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 2443

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/J Bret Dennison/

Primary Examiner, Art Unit 2443

Conferees:

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2447

/TONIA L.M. DOLLINGER/

Supervisory Patent Examiner, Art Unit 2443